NOMINATION—NATIONAL TRANSPORTATION SAFETY BOARD

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

NOMINATION OF
JAMES E. BURNETT, JR., TO BE CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

MARCH 17, 1982

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NOMINATION—NATIONAL TRANSPORTATION SAFETY BOARD

WEDNESDAY, MARCH 17, 1982

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION,
Washington, D.C.

The committee met, pursuant to notice, at 9:05 a.m., in room 357, Russell Senate Office Building, Hon. Nancy Kassebaum presiding.

OPENING STATEMENT BY SENATOR KASSEBAUM

Senator KASSEBAUM. Good morning. I always feel so far away up here, peering down, plus it smells so much like a swimming pool in here. My apologies for this hearing room. But I am sure it does not make a lot of difference to you because you have waited quite some time to be able to testify on behalf of being named Chairman of the NTSB, and I am sure you feel like you have gone through a baptism of fire in the time that you have served on the Board.

I would just like to take this opportunity to say on behalf of the Commerce Committee that the difficulties and the challenges that have been faced by the NTSB through the investigation of the crash of Air Florida, World Airways, and the Metro, really more or less all coming on top of each other, is one that I think was handled with great dignity, thoroughness, and it shows indeed how and why NTSB is such an important Board and how it can serve the public interest, as well as certainly the Government's interest in conducting these important inquiries.

Mr. BURNETT. Thank you, Madam Chairman.

Senator KASSEBAUM. I would like to ask if you have any opening comments to make before asking a few questions?

STATEMENT OF JAMES E. BURNETT, JR.

Mr. BURNETT. Yes, I do.

Madam Chairman, it is a pleasure to be here today. I want to begin my brief remarks by saying that I am looking forward to working with you, Senator Cannon, and with other members of the committee in forwarding the cause of transportation safety.

I am very proud to be under consideration before the committee as Chairman of the National Transportation Safety Board. Prior to coming to Washington it was my hope that I would be able to serve with an agency whose mission required Federal involvement, and which could make a substantive national contribution. After my first few months with the Board, I am pleased to tell you that I have not been disappointed. In fact, the Board's performance

during the recent major transportation accidents has been truly gratifying.

While I am very supportive of the Board's basic mission of accident investigation, a mission I feel it carries out very well, there are several issue areas which I would like to see further emphasized at the Safety Board. Those areas include accident survivability, including crashworthiness of vehicles, fire retardation and evacuation in the presence of fire danger, and the installation and use of occupant restraints. This area offers our greatest safety opportunity. Human performance as a causal factor in accidents, including alcohol and drug abuse by operators, as well as health, fatigue, and operational proficiency—these will be our most complex safety problems. And three, the transportation of hazardous material, which poses our greatest potential for catastrophe.

The Safety Board has begun efforts in each of these areas. Each of these initiatives should be pressed and strengthened. Each is intermodal in nature and the transfer of data and technology between the modes should be stressed.

In terms of my management philosophy, I view the ultimate test of the Safety Board's effectiveness to be whether we can make identifiable safety improvements in the transportation system. In order to make these improvements in a nonregulatory environment, Safety Board work products—be they safety recommendations or accident reports—must command the respect of the transportation industry and the various regulatory agencies. To that end, I intend to stress quality work products that can be acted upon in a timely manner.

The Safety Board has had an excellent reputation in the past for thorough and independent investigations, particularly in the area of aviation accidents. I intend to do my utmost to assure adequate resources to continue this tradition.

In this regard, I do not favor reallocating Safety Board resources away from aviation into some of our less developed surface accident functions. I believe that the close attention given by the Safety Board and its predecessor agencies to aviation accident investigation is an important factor in the aviation safety record we have in the country today.

On the other hand, I would like to emphasize that one of the missions of the Safety Board should be to apply some of the techniques used successfully in the aviation safety field to improvement of surface transportation safety.

Personally, I would like to see our nonaviation transportation activites expand and become more effective. For example, I believe the Safety Board should be the lead agency in all marine accident investigations. From a safety standpoint, I see no reason why the scope of our marine program should not be parallel and consistent with our aviation program. However, the only way this can be accomplished is through obtaining more resources. It cannot be accomplished through reprograming.

Of course, I am aware that the Federal resources for the transportation function are limited, and that even the most effective programs may not be immune from resource reductions. Nevertheless, I am deeply concerned with the diminishing ability of the

Board to continue to respond to transportation accidents as you and the public expect.

When I was appointed last June there were 374 people at the Safety Board. When I was confirmed in December there were 353, and 2 weeks from now there will be approximately 293, a reduction of 22 percent in only 9 months.

What all these numbers mean is that one, we have had to cut our field accident investigation program by 56 percent in rail, 43 percent in highway, and 100 percent in pipeline. Two, we are not staffed to send experts in all specialities to accident investigations. And three, safety initiatives previously funded by the Congress, such as our expanded human factors program, our new accident data system, and our increased laboratory analytical capability, have been stalled.

We have reached a critical level regarding the depth of expertise required to investigate major accidents. As you well know, a major aviation investigation requires persons highly specialized in aircraft structures and systems, powerplants, aerodynamics, maintenance, operations, air traffic control, weather, human factors, and flight recorder readout. In most specialty areas we have two or three people, and in some we have only one. We seldom know at the outset of an investigation which of these areas will be critical.

Moreover, when we are confronted with several concurrent investigations, as we have been recently, we are forced to shuttle staff from one investigation to another in an attempt to provide essential expertise.

I like to make the analogy to building a house. You need a carpenter, an electrician, a plumber, a mason, a roofer, and so forth. Their skills are not interchangeable. It does not matter how hard the others work; if you are missing one of these skills, you will never complete the house.

We simply cannot continue to do more with less. These cutbacks will mean fewer investigations, investigations of more limited scope, and fewer safety recommendations. The net effect is lost opportunities to deal with relevant safety issues which continue to cause accidents and needless loss of life and damage to property.

The confidence of the transportation industry in the Board's work will suffer as the level of our expertise declines in critical skill area. The backlog of unresolved or incomplete investigations will grow, and challenges to Board decisions will become more frequent. As emphasized earlier, the Board's effectiveness is dependent upon voluntary implementation of safety recommendations, and to lose the confidence of the industry is to significantly reduce the effectivenesss of the Board.

I am particularly grateful for your assistance, Madam Chairman, and that of all the other members of this committee in support of the Safety Board's past activities.

If you have any questions about future Board activities or my position as Chairman of the Board, I would be delighted to answer.

Senator KASSEBAUM. Thank you very much, Mr. Burnett.

I might first start with some of your comments made toward the end of your statement because being a member of the Budget Committee, I am sensitive to your comments on the budget reductions

for the NTSB and your belief that the effectiveness of the Board is somewhat in jeopardy because of those reductions.

Do you feel that there are any ways that given a shrinking budget, you could make some changes, other than just the elimination of professional and technical personnel who are very important?

Mr. BURNETT. It is very difficult for us to do because we are a highly labor-intensive organization. We cannot cut grants and we have to have a certain amount of training and travel to keep the quality of our employees up to par.

We have made major management savings, and even though our personnel has been cut by 22 percent. So far we have not impaired our effectiveness. However, we are at the edge of cutting our safety efforts, and the more our employment level is reduced, the more serious will be those cuts.

We have, for instance, reduced secretarial support by over 40 percent. We have probably gone too far in that area because we now have GS–15's using the Xerox machine and they are more apt to tear up the machines than the GS–5's, I believe. And we have reduced our travel for participation in seminars and symposia to the point that we may lose contact with the safety community. We have reduced our training to the point that if it continues—and we cannot continue; we are going to have to expand our training budget next year even if we have to lay off more people to do it—if we continued at the level we have now we would soon have people who are no longer of any value to us because they could not keep current in their respective fields of expertise.

I think we have made the management savings that we can make and from this point on, it is going to be major reductions in programs.

Senator KASSEBAUM. So you would hope to just be able to maintain what you have had rather than see any further reductions in budget?

Mr. BURNETT. Or even hope for a little restoration.

Senator KASSEBAUM. I would like to go back to the first part of your opening remarks and ask you about your belief that the NTSB should be very active. You see this as a role that is important to the Board in making recommendations and following through, I assume more aggressively in seeing that those recommendations are carried out.

I believe that you have made the comment that you felt the FAA had not been as responsive in following through with suggestions that you have made. I wonder how you see the role of the NTSB in being more aggressive in followthrough.

Mr. BURNETT. To reply to the comment about the FAA, they have not been as responsive as we would like for them to be in some areas. Actually, the FAA, of all the modal agencies that we work with, has the highest percentage of acceptable response to our recommendations, and that percentage is about 78 percent.

I have recently been quoted in the press in relation to cabin safety, an area in which they have not at all been responsive, in our view. And of course that is an area where there is a lot of economic involvement as well as safety involvement.

I think that the posture that the Safety Board has to maintain is that we are going to be hard to satisfy. If we are easily satisfied, we are not going to be doing our job. And we are going to be very demanding on the FAA and the other modal agencies and continue to insist that they adopt our recommendations.

But I think the area where we most need improvement as far as the Safety Board's work is concerned is in the followthrough on recommendations. The service we provide to the public is not to investigate the accident. It is to achieve the safety reform. We use accident investigation as a way to learn what we need to do, but the end product is the safety reform, and we do that through the recommendation process.

I like to look at our accident investigation effort as a type of research. It is a limited form of research, but it is a type of research. Research is no good unless you have the corresponding education, and that is the recommendation process. I do not think we are doing a good enough job there and I hope we can improve it.

It is a great challenge to do so, and I think we are going to have to work and experiment with some ways, but part of it is through intelligent use of the political process, to bring the kind of public attention and the public pressure to bear that it takes to achieve some of these reforms, such as in the area of cabin safety.

Senator KASSEBAUM. You mentioned, and maybe this is in regard to cabin safety, the installation and use of occupant restraints. What specifically would you have in mind there?

Mr. BURNETT. Intermodally, we are talking about seatbelts in automobiles; we are talking about infant carriers; we are talking about the child restraints. And I do not think that in our society those things are apt to be achieved by laws requiring people to use them, at least not at the Federal level. But I think that we need to do much more in the area of informing the public as to what the dangers are and the hazards of losing children and the injuries, not only death but maiming injuries that occur in automobile accidents because of the failure to use the child restraints and infant restraints.

And I think particularly in general aviation, more can be done as far as shoulder harnesses and better equipping the passenger seats in general aviation aircraft. And I think we need to begin to look, and I am certainly not taking a position on this, about other public transportation and the need for occupant restraints in buses and on trains.

Senator KASSEBAUM. And you would do this, you think, principally through the press and in making the public more aware? Because NTSB, and my knowledge is limited because I have not been active all that long in this area, has not been that targeted to highway safety in the past. Is that not right?

Mr. BURNETT. That is right. Of course traditionally the agency grew up in the aviation industry. We were expanded by the Safety Board Act when the Department of Transportation was created, into other modes of transportation, including highway. As you know, the vast number of our transportation-related deaths in this country are in the highway field.

Regulation in the highway field, rules of the road, and most accident investigation, is done by the States, and that is going to con-

tinue. But we do have a vital role to play there as far as correlating the national statistics and seeing that the information that we get from the accident investigations that are taking place all over the country is valid and then it is transmitted and used in the public policy process.

There is also the very important aspect of vehicle design, which is in the field of regulation of interstate commerce and is the responsibility I feel of the Federal Government. And the Federal Government has a very vital role to play there. This is where your occupant restraints come in. Of course we would not have probably the seatbelts that we have in cars today if it were not for regulatory intervention. And we may have to be looking at further regulation in mass transit and those areas.

Senator KASSEBAUM. We have just gone through quite a discussion here about airbags in Congress, and how far we should be involved in the regulatory process. That is why I was curious how you viewed the role of the NTSB in urging the FAA, for example, or the aviation or automobile industry itself to enforce or adopt some of the procedures that you recommend.

Mr. BURNETT. I think we should be an advocate for safety. And even though I know there are certain limits on safety, economic limits that must be imposed, it is the job of the Safety Board to push for safety, and we will let the economic interests take care of economics.

Senator KASSEBAUM. A followthrough on that would be, for instance, the investigation of the Air Florida crash. Now that the hearings have been completed and as the testimony will be analyzed and you will be analyzing what recommendations you will be making, I assume then it would be your belief that this should be something that you would not only utilize the media in an effort to direct attention to better weatherization procedures or rescue procedures, but also those of us here involved in committees where we should be considering various procedures. Is that correct?

Mr. BURNETT. I think maybe next week will be my eighth testimony before committees of Congress and my policy is to be very frank and very candid and say very forthrightly what the Safety Board has learned in its investigations, and that will continue to be my policy.

Senator KASSEBAUM. Thank you very much, Mr. Burnett. I appreciate your patience as we get this underway and I am sure that the Board will be happy to finally have a chairman.

Mr. BURNETT. Thank you very much.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF JAMES EUGENE BURNETT, JR.

Address: Residence: 108 Thomas Street, Clinton, Arkansas 77031. Mailing: 1201 Jefferson Davis Highway, Arlington, Virginia 22202.

Date and Place of Birth: September 20, 1947, Little Rock, Arkansas.

Marital Status: Single.

Names and ages of children: None.

Education: Juris Dockor, University of Arkansas Law School, Fayetteville, Arkansas, 1973; Bachelor of Arts with major in Political Science, University of Arkansas, Fayetteville, Arkansas, 1970; and Graduate, Clinton High School, Clinton, Arkansas, 1965.

Employment Record: Self-employed as Attorney at Law, 1973–1981; and Member of the National Transportation Safety Board, December 28, 1981–Present.

Government experience: Municipal Judge for Clinton, Arkansas and Van Buren County, 1975-1979; Special Associate Justice of Supreme Court of Arkansas, February, 1981; Juvenile Judge, of Supreme Court of Arkansas, February, 1981; Juvenile Judge, Van Buren County, Arkansas, 1973-present; City Judge, Damascus, Arkansas, 1979-present; Congressional Intern for Congressman John Paul Hammerschmidt, summers 1967-1969; and Rule 71A Commissioner, United States District Court, Eastern District of Arkansas, 1974-1978.

Memberships: Clinton Chamber of Commerce, President, 1978-1980; Van Buren County Day Care Center, Director, 1974-1981; Medical Services, Inc. of Clinton, Arkansas, Director, 1979-1981; Arkansas Juvenile Judges Association; National Conference of Special Court Judges; Arkansas Farm Bureau; Arkansas Bar Association; and American Bar Association.

Political Affiliations and activities: General Counsel, Arkansas Republican State Committee, 1979-present; Legal Counsel, Frank White for Governor Campaign, 1980; Delegate, 1980 Republican National Convention and member of the Committee on Rules and Order of Business; Parliamentarian, Arkansas Republican State Convention, 1980 Member, Arkansas Republican Campaign Steering Committee, 1980; State Campaign Director, Ed Bethune for Attorney General, 1972; President, Young Republican Club, University of Arkansas, 1967-1968; and Delegate, Arkansas Republican State Conventions, 1970, 1972, 1974, 1980, Member Platform Committee, 1972 Rules Committee, 1980.

Contributions

1975 College Republicans of Arkansas	$5.00
1978 Van Buren County Republican Committee	25.00
1978 Arkansas Republican State Committee	50.00
1979 Republican Party of Arkansas	25.00
1979 White County Republican Committee	50.00
1980 Faulkner Country Republican Committee	25.00
1980 Republican National Committee	50.00
1980 Johnson County Republican Committee	7.50
1980 Arkansas Republican State Committee	17.50
1980 Frank White for Governor	350.00
1981 Van Buren County Republican Committee	15.00

I have made additional cash contributions of less than $100.00 to political committees of which I have no record.

Honors and Awards: Phi Beta Kappa, Pi Sigma Alpha, Blue Key.

Published writings. None.

Speeches:

October 29, 1978. Clinton High School Civic Class, Speeches on the Judicial System.

November 16, 1978. Van Buren County Retired Teachers Association, Speech on Wills and Estate Planning.

January 8, 1979. Van Buren County Board of Realtors, Speech on Industrial Development.

February 10, 1979. Clinton Chamber of Commerce Annual Meeting. President's Message.

March 26, 1979. Arkansas State University Young Republican's Club, Speech on the Presidential Selection Process for 1980.

May 25, 1979. Arkansas State University Young Republicans Club Annual Banquet. Address substituting for Lynn Lowe, Arkansas Republican State Chairman.

October 9, 1979. Fairfield Bay Republican Women's Club. Speech on Local Political Organization.

October 23, 1979. Harding University Young Republican Club. Speech on the 1980 Presidential Selection Process.

February 5, 1980. Fairfield Bay Permanent Resident's Association. Speech on Behalf of the Honorable George Bush for President of the United States.

February 16, 1980. Arkansas Republican State Committee Nomination of Preston Bynum for At-Large Delegate to the Republican National Convention.

March 8, 1980. Van Buren County Realtors Association Speech on Industrial Development.

March 25, 1980. Shirley High School Adult Home Economics Class. Speech on Family Law.

April 16, 1980. Shirley, Arkansas Girl Scout Troop. Speech on Judicial Process.

April 20, 1980. Conway County Concerned Citizens. Speech on Local Options Initiative Law.

May 17, 1980. Horseshoe Bend Republican Women's Club Annual Luncheon. Address.

July 1, 1980. Robert A. Taft Institute, University of Arkansas at Little Rock, Speech on the organization of the Republican Party in Arkansas.

July 3, 1980. Arkansas Social Services, Foster Parents Training Program. Speech on Arkansas Juvenile Law and Procedure.

August 2, 1980. Garland County Republican Women's Club Annual Luncheon. Speech on behalf of Frank White, Candidate for Governor of Arkansas.

September 16, 1980. Moral Majority Regional Meeting, Morrilton, Arkansas. Speech on behalf of Bill Clark for United States Senator.

September 17, 1980. Frank White for Governor Rally Clinton, Arkansas, Introduction of Frank White.

June 23, 1981. Arkansas Social Services. Foster Parent Training. Speech on Arkansas Juvenile Law and Procedure.

September 7, 1981. Arkansas Retired Teachers Regional Conference. Address.

September 12, 1981. Maria Van Buren Chapter, Daughters of the American Revolution Constitution Day address.

None of my speeches were delivered from a prepared text, and as far as I know, none were transcribed. Therefore, I cannot supply a copy of any of these speeches.

January 8, 1982. National Press Club, Transportation Roundtable. No prepared statement—question and answer session on transportation issues.

January 28, 1382. Testified before the Energy and Commerce Committee, Subcommittee on Commerce, Transportation and Tourism, House of Representatives, regarding Commuter Rail Safety.

February 23, 1982. Testified before the Post Office and Civil Service Committee, House of Representatives, regarding air traffic control.

March 9, 1982. Testified before the Science and Technology Committee, House of Representatives, regarding aviation safety.

March 15, 1982. Testified before the Appropriations Committee, United States Senate, regarding the Safety Board's fiscal year 1983 budget.

[Whereupon, at 9:25 a.m., the committee was adjourned.]

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